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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER, L.L.P.
1300 I STREET, N.W.
WASHINGTON DC 20005

EXAMINER

HOWARD, S.

ART UNIT

PAPER NUMBER

1615

DATE MAILED:

10/15/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action SummaryApplication No.
09/655,841Applicant(s)
Ramin et al.Examiner
Sharon HowardArt Unit
1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/6/2000 and 9/7/2000
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 20) ☐ Other:

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Claims 1-42 are pending in this application.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 2,3,20,30,28-30 and 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, the words "chosen from in the phrase "chosen from silver, nickel, chromium, molybdenum, aluminum, gold, copper, tin and magnesium is improper Markush language. Proper Markush language is "selected from the group consisting of silver, nickel, chromium, molybdenum, aluminum, gold, copper, tin and magnesium."

In claim 3, the phrase "chosen from silver, nickel, chromium and molybdenum" is improper Markush language. Proper Markush language is "selected from the group consisting of silver, nickel, chromium and molybdenum".

In claim 20, the phrase "chosen from ketones, alcohols, glycols, ethers, alkanes, cyclic aromatic compounds and aldehydes" is improper Markush language. Proper Markush language is "selected from the group consisting of ketones, alcohols, glycols, ethers, alkanes, cyclic aromatic compounds and aldehydes".

In claim 28, the phrase "chosen from radical-mediated polymers, polycondensates, and polymers of natural origin." Proper Markush language is "selected from the group consisting of radical-mediated polymers, polycondensates, and polymers of natural origin."

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In claim 29, the words "chosen from" is improper Markush language. Proper Markush language is "selected from the group consisting of".

In claim 30, "chosen from nitrocelluloses, cellulose acetates, cellulose acetobutyrate, cellulose acetopropionates and ethylcelluloses is improper Markush language. Proper Markush language is "selected from the group consisting of nitrocelluloses, cellulose acetates, cellulose acetobutyrate, cellulose acetopropionates and ethylcelluloses."

In claim 37, "chosen from auxiliary film-forming agents, thickeners, filler, spreading agents, wetting agents, dispersants, anti-foaming agents, preserving agents, UV-screening, active agents, surfactants, moisturizers, fragrances, neutralizing agents, stabilizers, and antioxidants."

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 10158541 document in view of Schmid et al. (5,624,486) and further in view of JP 5017710 document.

The Japanese document discloses coating the surface of a powder pigment base material composition of glass particles with a silver alloy. The particles are known to be coated with a silver alloy comprising 0.5-30 wt. percent of tin and 0.5-10 wt.% of one or two or more elements

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of aluminum, nickel, titanium and magnesium, resulting in a dark silver metallic pigment having glittery properties and weather resistance properties.

The Japanese document does not teach a cosmetically-acceptable medium which is known in the art.

col. 8, ln. 45 has cosmetic

However, Schmid teaches a cosmetically-acceptable medium, i.e. solvents and water (col.6, lines 9-42). Schmid teaches metallic (luster) substrate pigment particles which are known in cosmetics (col.1, lines 55-64 and col.3, lines 28-32). Schmid teaches a process for producing the luster pigment mixtures (col.3, lines 13-18). Schmid teaches that the metallic substrate is coated with multiple layers, and that the substrates for the pigments consists of copper, silver, aluminum, gold (col.3, lines 35-38), molybdenum, chromium and nickel (col.3, lines 13-34, col.4, lines 4 and 5, col.4, lines 26-38). Schmid teaches that it is obvious for one of ordinary skill in the art to determine the size of the substrate particles, and that it is known in the art that the average largest diameters of the particles generally range from about 1 to 200 um (col.3, lines 64-67).

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25, 32 The JP '710 is relied on the teaching of film forming polymers. The Japanese document discloses a composition comprising glass particles which are coated with metallic pigments, silver and nickel. The document discloses 15% methyl methacrylate, 40% butyl methacrylate, 13% 2-ethylhexyl acrylate, 15% hydroxyethyl methacrylate and 2% acrylic acid.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a film forming polymer disclosed by the JP '710 document and a cosmetically-acceptable medium taught by Schmid in the composition comprising glass particles coated with a

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metallic pigment, having the reasonable expectation of obtaining a composition which is weather resistant and have glittery properties.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon Howard whose telephone number is (703) 308-4359. The examiner can normally be reached Monday through Friday from 9:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached on (703) 308-2927. The fax number for this Group is (703) 746-3121.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [thurman.page@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of confidentiality requirements of U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.

Sharon Howard

Sharon Howard

October 11, 2001

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600